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Attorney for Defendant:
JOHN OLIVAS

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN JACON OLIVAS,

Defendant.

Case No. 18-CR-231-JGB

***MOTION TO DISMISS WITHOUT
PREJUDICE AND RECUSE THE
USAO, OR IN THE
ALTERNATIVE, TO DISMISS
WITHOUT PREJUDICE
AND RECUSE AUSA JOSEPH
WIDMAN***

TO THE UNITED STATES ATTORNEY'S OFFICE: **Please note**
that November 15, 2021, Defendant John Olivas will move for
orders dismissing the current charges against Mr. Olivas,
without prejudice, recusing the USAO in this District, and
referring the matter to another USAO for prosecution. In
the alternative, Mr. Olivas will move for orders dismissing
the charges in this case, without prejudice, and appointing
another AUSA in this District, who does not have a conflict

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1 of interest with Mr. Olivas, to the matter for conflict-
2 free investigation and prosecution.

3 This request is based on the attached Memorandum of
4 Points and Authorities, the Declarations of Meghan Blanco
5 and John Olivas, the files in this case, and any additional
6 arguments or evidence that the Court wishes to hear.

7 Dated: October 12, 2021

Respectfully submitted,

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10 By: /s/ Meghan Blanco
11 MEGHAN A. BLANCO
12 Attorney for Defendant
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. INTRODUCTION**

3 During the relevant time period covered by the
 4 Indictment, Mr. Olivas was a case agent on *United States v.*
 5 *Julio Ramirez*, 11-CR-51-VAP - a significant drug and gun
 6 case that AUSA Joseph Widman prosecuted. It resulted in a
 7 hefty, 288-month, post-plea sentence. However, prior to
 8 sentencing, defendant Ramirez lodged a number of
 9 allegations against several case agents, including Mr.
 10 Olivas. Between December 2012 and approximately April
 11 2013, AUSA Widman defended Mr. Olivas against those
 12 allegations in under-seal filings. And then, just months
 13 later, he assumed the role of lead prosecutor against Mr.
 14 Olivas in this case.

15 Because AUSA Widman had an incurable conflict of interest
 16 at the time he investigated and indicted this case, the
 17 current charges against Mr. Olivas should be dismissed
 18 without prejudice, the USAO in this District should be
 19 recused, and the matter should be referred to another USAO
 20 for prosecution. In the alternative, charges should be
 21 dismissed without prejudice and another AUSA in this
 22 District, who does not have a conflict of interest with Mr.
 23 Olivas, should be assigned the matter for conflict-free
 24 investigation and prosecution.

25 **B. BACKGROUND**

Mr. Olivas worked as a Special Agent for the Department
 of Homeland Security, Homeland Security Investigations from
 2007 until his resignation in 2015. Between approximately

1 2010 and 2013, Mr. Olivas worked with AUSA Joe Widman in
2 the investigation and prosecution of defendant Julio
3 Ramirez in *United States v. Julio Ramirez*, 11-CR-51-VAP.

4 Defendant Ramirez pleaded guilty to drug and gun charges.
5 He was ultimately sentenced to 288 months in custody.

6 However, in December 2012 - between his change of plea
7 hearing and sentencing - Mr. Ramirez accused Mr. Olivas of
8 "having a girlfriend who belongs to the Casa Blanca Fern
9 Street, a local gang. He assists her in illegal activities
10 and helps her get out of jams. This is taking place right
11 now." See Blanco Decl. at Exhibit A. Counsel for
12 defendant Ramirez and AUSA Widman elected to continue
13 defendant Ramirez's sentencing date so AUSA Widman could
14 investigate the allegations against Mr. Olivas. It is
15 believed that AUSA Widman also submitted a report to the
16 Office of Professional Responsibility, per DOJ policy, as
17 OPR opened its own investigation a short time later.

18 In the months that followed, AUSA Widman interviewed Mr.
19 Olivas concerning his relationship with the woman
20 identified in the defense's filing and defended Mr. Olivas
21 against defendant Ramirez's allegations of misconduct. For
22 the duration of time Mr. Olivas worked with AUSA Widman on
23 the Ramirez matter - including the period AUSA Widman
24 defended Mr. Olivas against Ramirez's allegations - Mr.

1 Olivas dated each of the alleged victims identified in the
2 Indictment in this case.

3 Within months of interviewing and defending Mr. Olivas
4 against allegations that threatened to unravel a plea
5 agreement in a significant case that ultimately resulted in
6 a 288-month sentence, AUSA Widman began investigating Mr.
7 Olivas for allegedly abusing the very same women Mr. Olivas
8 dated while he worked with AUSA Widman on the Ramirez
9 matter.

10 **C. LAW**

11 Members of a U.S. Attorney's staff should not participate
12 "in a particular investigation or prosecution if such
13 participation may result in a personal
14 ... conflict of interest, or the appearance thereof." 28
15 U.S.C. § 528. Prosecutors must be disinterested such that
16 they may not represent the United States "in any matter in
17 which they, their family, or their business associates have
18 any interest." *Young v. United States ex rel. Vuitton et*
19 *Fils S.A.*, 481 U.S. 787, 803, 107 S.Ct. 2124, 95 L.Ed.2d 740
20 (1987) (citation omitted). This is because "[a] scheme
21 injecting a personal interest, financial or otherwise, into
22 the enforcement process may bring irrelevant or
23 impermissible factors into the prosecutorial decision and
24 in some contexts raise serious constitutional questions."
25 *Marshall v. Jerrico, Inc.* 446 U.S. 238, 249-50, 100 S.Ct.
1610, 64 L.Ed.2d 182 (1980) (citations omitted). As a

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1 result, the presence of an interested prosecutor is a
2 fundamental error that "undermines confidence in the
3 integrity of the criminal proceeding." Young, 481 U.S. at
4 810, 107 S.Ct. 2124 (citations omitted). Such errors are
5 so fundamental that prejudice need not befall the
6 defendant. See *United States v. Rosnow*, 977 F.2d 399, 411
7 (8th Cir. 1992).

8 **D. ARGUMENT**

9 There should be no question that AUSA Widman, based on
10 his former relationship with Mr. Olivas, is barred from any
11 participation in this prosecution due to a conflict of
12 interest. That conflict of interest is clear: (1) Mr.
13 Olivas and AUSA Widman worked together on a significant
14 case for years, during the exact timeframe covered by the
15 Indictment in this case; (2) allegations were lodged
16 against Mr. Olivas in a significant case on which AUSA
17 Widman was lead prosecutor. Those allegations threatened
18 to unravel a negotiated plea agreement that resulted in a
19 288-month sentence - likely AUSA Widman's lengthiest
20 sentence during that time; (3) AUSA Wideman defended Mr.
21 Olivas against allegations of misconduct to save his case.
22 He interviewed Mr. Olivas concerning his relationship
23 history ***while Mr. Olivas was dating the alleged victims in***
24 ***this case*** and filed an under-seal declaration that he
25 drafted for Mr. Olivas concerning his past relationship;

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1 and (4) just months later, AUSA Widman assumed the role of
2 lead prosecutor in an investigation of Mr. Olivas
3 concerning allegations that he raped the very women he
4 dated while the two worked together.

5 Based on AUSA Widman's relationship with Mr. Olivas, his
6 defense of Mr. Olivas in the Ramirez matter, the appearance
7 of bias and personal animosity that stemmed from
8 allegations against Mr. Olivas in the Ramirez matter, and
9 his communications with Mr. Olivas concerning past
10 relationships, AUSA Widman had, and continues to have, a
11 conflict of interest in this case.

12 Nevertheless, AUSA Widman elected to assume the role of
13 lead prosecutor against Mr. Olivas. He did not recuse
14 himself from the matter. He did not step aside to allow
15 one of the other 250 AUSAs in Office who do not have a
16 conflict of interest with Mr. Olivas investigate the case.

17 On August 1, 2018, after years of investigation, AUSA
18 Widman presented charges against Mr. Olivas to a grand jury
19 that had been impaneled over a year earlier. He remained
20 on the case as lead prosecutor until March 2019, tainting
21 the matter from its inception through Indictment.

22 When a potentially conflicted prosecutor has played a
23 very minor role, courts have held that his "limited
24 involvement" does not deprive a defendant of his right to a
25 disinterested prosecutor. *See United States v.*

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1 *Scrushy*, 721 F.3d 1288, 1307-08 (11th Cir.2013). *Scrushy*
2 concerned a potentially conflicted prosecutor who
3 voluntarily recused herself, and her only further
4 involvement was through several e-mails she sent to the
5 replacement prosecutors. *Scrushy*, 721 F.3d at 1307-08.
6 The prosecutor did not play a major role in the charges,
7 and she timely recused herself.

8 Unlike in *Scrushy*, AUSA Widman had a clear conflict and
9 failed to voluntarily recuse himself when it mattered - at
10 the outset of the investigation. *Young* categorically
11 forbids an interested person from controlling the
12 defendant's prosecution. *Young*, 481 U.S. 787 at 803.

13 As such, the case should be dismissed so the matter can
14 commence with a new lead prosecutor, who can ensure that
15 the investigation and charges are free from "irrelevant or
16 impermissible factors" and "serious constitutional
17 questions."

18 **E. CONCLUSION**

19 Based on the foregoing, Mr. Olivas respectfully
20 requests that the Court dismiss the current charges against
21 Mr. Olivas, without prejudice, recuse the USAO in this
22 District, and refer the matter to another USAO for
23 prosecution. In the alternative, Mr. Olivas respectfully
24 requests that the Court dismiss the charges in this case,
25 without prejudice, and order another AUSA in this District,

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